

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

**EASTERN REGIONAL MEDICAL
CENTER, INC., et al.,**

Plaintiffs,

v.

**INNA BLACK and
DONALD S. BLACK,**

Defendants.

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Civil Action No: 2:12-cv-524

REPORT AND RECOMMENDATION

On October 29, 2015 the Court held a hearing with respect to Garnishee Monarch Bank's and Garnishee Bank of America's apparent failure to respond to garnishment summonses issued to them by this Court upon the application of Plaintiff. ECF No. 52. At that hearing, counsel for Plaintiff represented to the Court that she believed the two Garnishees had failed to respond, but she was not sure. Consequently, the Court directed counsel to contact Monarch Bank and Bank of America and then file a Notice of Status with the Court. As of December 1, 2015, neither Monarch Bank nor Bank of America had answered the garnishment summonses, and Plaintiff had not filed a Notice of Status with the Court. ECF No. 53. The Court issued a Show Cause Order, directing the Plaintiff to either voluntarily dismiss the two garnishments or show cause by December 4, 2015, as to why the undersigned should not recommend to the Chief District Judge that the garnishment summonses issued against Monarch Bank and Bank of America be dismissed. *Id.* To date, the Plaintiff has not voluntarily dismissed the two garnishments nor has she responded to the Court's December 1, 2015 Show Cause Order.

Fed. R. Civ. P. 41(b) states that “a district court may dismiss an action for lack of prosecution, either upon motion by a defendant pursuant to Fed. R. Civ. P. 41(b) or on its own motion.” *McCargo v. Hedrick*, 545 F.2d 393, 396 (4th Cir. 1976); *Portillo v. Aurora Bank FSB*, 2013 WL 1288150, *1 (E.D. Va. 2013). The authority of a district court to dismiss an action *sua sponte* for lack of prosecution is an “inherent power” of the court. *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630–31 (1962). Accordingly, based on Plaintiff’s failure to respond to the Court’s Show Cause Order, the undersigned **RECOMMENDS** Plaintiff’s garnishment summonses issued against Monarch Bank and Bank of America be **DISMISSED WITH PREJUDICE**.

III. REVIEW PROCEDURE

By receiving a copy of this Report and Recommendation, the Defendants are notified that:

1. Any party may serve on the other party and file with the Clerk of this Court specific written objections to the above findings and recommendations within fourteen days from the date this Report and Recommendation is mailed to the objecting party, *see* 28 U.S.C. § 636(b)(1)(C) and Federal Rule of Civil Procedure 72(b), computed pursuant to Federal Rule of Civil Procedure Rule 6(a) plus three days permitted by Federal Rule of Civil Procedure Rule 6(d). A party may respond to another party’s specific written objections within fourteen days after being served with a copy thereof. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

2. A United States District Judge shall make a *de novo* determination of those portions of this Report and Recommendation or specified findings or recommendations to which objection is made. The parties are further notified that failure to file timely specific written objections to the above findings and recommendations will result in a waiver of the right to appeal from a judgment of this Court based on such findings and recommendations. *Thomas v. Arn*, 474 U.S.

140 (1985); *Carr v. Hutto*, 737 F.2d 433 (4th Cir. 1984); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

The Clerk is **DIRECTED** to forward a copy of this Report and Recommendation to the Defendants and counsel of record for the Plaintiffs.

A handwritten signature in black ink, appearing to read 'Lawrence R. Leonard', written over a horizontal line.

Lawrence R. Leonard
United States Magistrate Judge

Norfolk, Virginia
December 22, 2015

By: Deputy Clerk
December 22, 2015